



SE-710

2008 Edition

Agreement for Gifts in the Form of Construction

The _____
(Name of Donor)

a _____
(State whether an Eleemosynary Corporation, Corporation, Firm or Individual)

under the laws of South Carolina, desires to enter into an agreement with:

(Name of Agency)

(Address of Agency)

hereinafter called the Agency, to construct, erect or otherwise provide and donate to the Agency a:

(Brief description of the proposed gift)

to be constructed on real property owned by the Agency and as further described and/or defined in the attached "Appendix A" containing Architectural/Engineering plans, specifications and other documentation to define the gift, hereinafter known as the Facility.

Now therefore, in consideration of the mutual covenants contained herein and the payment of one dollar and other valuable consideration by the Donor to Agency, receipt of which is hereby acknowledged, the parties hereto agree as follows:

The Donor, in donating the Facility to the Agency, agrees to the following:

1. The Donor shall enter into an agreement with an Architectural and/or Engineering firm, hereinafter known as A/E, to prepare all necessary plans and specifications, hereinafter called the Contract Documents, of the proposed Facility to assure proper construction and compliance with all codes, laws and regulations as required by the latest edition of the "Manual for Planning and Execution of State Permanent Improvements – Part II", (OSE Manual) Chapter 5, as published by the Office of the State Engineer.
2. The A/E shall submit the Contract Documents to the Office of State Engineer for review and approval before starting construction. A/E shall obtain any approval as may be required by SC Laws or Regulations. A/E shall carry such insurance coverage as required by the Agency.
3. Prior to commencement of any construction, the Agency and donor shall agree upon a location for the Facility and the land area required for construction and related activity. Once this location has been agreed upon and prior to commencement of construction, the Donor or its agency shall fence off said area and shall confine all activity to within the area except access and egress to said area.
4. Donor or its designated agent shall arrange for and pay for all utilities, sewer, water, electrical, etc., necessary during construction.
5. The Donor shall give the Agency or its designated representative(s) and the Office of State Engineer unlimited access to the construction site during normal working hours. The Agency and the Office of State Engineer shall have full authority to determine that construction is in compliance with the Contract Documents and applicable codes and regulations.

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6. The Donor, its agent, and/or its General Contractor shall purchase and maintain, for the life of the construction contract, Contractor's Liability Insurance and Property Insurance, in accordance with the OSE Manual. Donor and Contractor hereby assume any and all excess liability above that covered by the aforementioned insurance policies and hereby agrees to indemnify the State, its agencies and employees for any claims in excess of such insurance coverage. A Certificate of Insurance, in the form of an ACORD 255 Form, shall be filed with the Agency. The Agency shall be named as party to the certification.

7. Any guarantees or warranties issued by the Contractor(s) or Vendor(s) that would normally pass to the Donor shall pass to the Agency.

8. Donor agrees to start construction no later than _____
(Date)

and complete construction by _____
(Date)

subject to adjustments in the schedule caused by material and vendor strikes, weather and other acts of God, and delays not the responsibility of the Donor, A/E or Contractor.

9. Prior to commencement of construction, Donor shall provide sufficient proof to the satisfaction of the Agency that sufficient funds in the form of cash or notes have been deposited in a banking institution and dedicated to this project to pay for all construction costs plus all other incidental expenses including A/E fees. Also, the Donor shall provide copies of all permits required before the start of construction including, but not limited to zoning and storm water management.

The Agency, in accepting the Facility from the Donor, agrees to the following:

1. Provide access to the Facility site;
2. Review plans and specifications prepared by the A/E in a timely manner;
3. Permanent connection of all utilities shall be by the Agency. Said point of connection shall be a previously agreed point and as shown in the contract documents.

At the time of acceptance, the Donor shall agree to hold the Agency, Office of State Engineer, State of South Carolina and its agents and employees harmless against any claims that may arise from the construction of the Facility, including any claims arising out of defects in workmanship. Donor and Contractor further agree to indemnify the State, its agents and employees from any claims or damages related to the construction of said project.

The parties hereby agree that no liabilities shall accrue against any of the parties to this project except as set forth herein. No amendment shall be made to this agreement except as done in writing and signed by the parties thereto.

The parties agree that this agreement creates specific contractual rights, the breach of which shall give rise to an action at law or equity pursuant to South Carolina law.

Agreement entered into the _____ day of _____,
at _____, South Carolina.

(Print or Type Name of Donor's Representative)

(Print or Type Name of Agency's Representative)

(Signature of Donor's Representative)

(Signature of Agency's Representative)

(Title)

(Title)

INSTRUCTIONS TO THE AGENCY:

1. Submit to the OSE any agreements and/or letters of understanding that relate to or support this Agreement.
2. Submit any documents that provide further information about the nature and location of the project construction.
3. Retain an original and copy of supporting information in the Agency's project file.